

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07cv98**

ASCENSION ESCAMILLA-GERONIMO,)	
individually and on behalf of a class of all)	
others similarly situated,)	
)		
Plaintiffs,)	
)		
Vs.)	ORDER
)		
HILLSIDE NURSERY WHOLESALE)	
COMPANY, LLC; HILLSIDE NURSERY,)	
LLC; KENNETH T. ALLISON; and)	
WILLIAM B. ALLISON,)	
)		
Defendants.)	
)		

THIS MATTER is before the court on plaintiffs' Motion to Facilitate Notice Under 29 U.S.C. Section 216(b). Plaintiffs have file such motion contemporaneously with the filing of the Complaint, and the putative defendants have responded arguing that notice to the putative class is premature under Section 216(b) inasmuch as an "agricultural Exemption" to overtime pay may exist under Section 213(b). The court has recently dealt with conditional class certification and notice under Section 216(b) in another case now pending. The court must agree with defendants that it would be premature to make the discretionary determination required under Section 216(b). Plaintiffs' motion will, therefore, be denied without prejudice. Plaintiffs are advised that they may reassert such issue during the Initial Pretrial Conference, which will be

conducted after issues join and the parties file their CIAC.

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs' Motion to Facilitate Notice Under 29 U.S.C. Section 216(b) (#4) is **DENIED** without prejudice.

Signed: April 27, 2007

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

